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In re Application of :
BECK, Jochen et al. :
Application No.: 10/564,690 : DECISION ON
PCT No.: PCT/EP04/05437 :
Int. Filing Date: 19 May 2004 : PETITION
Priority Date: 11 July 2003 :
Attorney Docket No.: 19345 : UNDER 37 CFR 1.42
For: CONTROL AND ADJUSTMENT ... :
MOBILE WORKING MACHINE :
:

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the declaration reveals an indication that joint inventor Jochen Beck is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 19 May 2004, applicants filed international application PCT/EP04/05437, which claimed a priority date of 11 July 2003. A copy of the international application was transmitted to the Office by the International Bureau on 27 January 2005. The deadline for entry into the national stage in the United States was 11 January 2006.

On 11 January 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 31 August 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 31 October 2006, applicants submitted a declaration of the inventors that has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the

deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration is signed by a legal representative. The declaration must list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. The declaration lists the information for the living inventors, and lists the information for either the deceased inventor or the legal representative, but not both. As such, the declaration does not satisfy 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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